LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 47 LCA 75.

Bangalore, dated 17th July 1975.

Ordered that the Companies (Temporary Restriction on Dividends) Amendment Act, 1975 which has been published in the Gazette of India Extraordinary, Part II, Section I, dated 21st May 1975 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESH RAO,
Under Secretary to Government,
Department of Law and Parly. Affairs.

Assented to on 21st May 1975. Act No. 28 of 1975.

THE COMPANIES (TEMPORARY RESTRICTIONS ON DIVIDENDS) AMENDMENT ACT, 1975

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ACT

to amend the Companies (Temporary Restrictions on Dividends) Act, 1974.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Companies (Temporary Restrictions on Dividends) Amendment Act, 1975.

(2) It shall be deemed to have come into force on the 1st day of March, 1975.

2. **Amendment of section 4.**—In the Companies (Temporary Restrictions on Dividends) Act, 1974 (35 of 1974) (hereinafter referred to as the principal Act), in section 4, in sub-section (1), for the words "For a period

of two years", the words "Save as other wise provided in section 5A, for a period of two years" shall be substituted.

3. Amendment of section 5.—In section 5 of the principal Act, for the words "For a period of two years", the words "Save as otherwise provided in section 5A, for a period of two years" shall be substituted.

4. Insertion of new section 5A.—After section 5 of the principal Act the following section shall be inserted namely:—

'5A. (1) **Restrictions under which dividends in excess of distributable profits may be declared** — (1) On and from the commencement of the Companies (Temporary Restrictions on Dividends) Amendment Act, 1975, and subject to the provisions of sub-section (2), it shall be lawful for a company to which this Act applies to declare, out of its profits for any financial year, dividend exceeding, in the aggregate its distributable profits for that financial year.

(2) Where, after the commencement of the Companies (Temporary Restrictions on Dividends) Amendment Act, 1975, a company to which this Act applies declares dividend for any financial year exceeding, in the aggregate, its distributable profits for that financial year, such company shall not, for a period of two years from the appointed day, make payment of so much of such dividend as exceeds its distributable profits for that financial year and, on the expiry of the said period, so much of the dividend as is in excess of the distributable profits of the company for the financial year aforesaid (the amount in excess as aforesaid being hereinafter referred to as the "deferred dividend"), shall be payable, together with interest due thereon at the rate of eight per cent per annum, in two equal annual instalments, the first of which shall become due and payable on the date on which the said period of two years expires.

(3) The provisions of sections 4 and 5 shall, except to the extent they are inconsistent with the provisions of this section, apply to a dividend declared under this section.

(4) No dividend shall be declared under sub-section (1) except after complying with the provisions of sub-section (2A) of section 205 of the Companies Act, 1956 (1 of 1956).

(5) The provisions of section 205A of the Companies Act, 1956 (1 of 1956), shall not apply to any instalment of deferred dividend

Provided that if the whole or any part of an instalment of deferred dividend remains unpaid after the expiry of a period of thirty days from the date on which such instalment becomes due and payable, the provisions of the said section 205A shall apply to the amount so remaining unpaid.

(6) Where, after the commencement of the Companies (Temporary Restrictions on Dividends) Amendment Act, 1975, a company to which this Act applies declares dividend for any financial year exceeding, in the aggregate, its distributable profits that financial year the provisions of the Income-tax Act, 1961, (43 of 1961), shall, subject to the provisions of sub-section (10), apply in relation to the whole of the dividend so declared, as they apply in relation to dividend which is declared but payment of no part of which is deferred.

(7) Where, after the commencement of the Companies (Temporary Restrictions of Dividends) Amendment Act, 1975, a company to which this Act applies declares dividend for a financial year exceeding, in the aggregate, its distributable profits for that financial year, the company shall post, within forty-two days from the date of such declaration, to every shareholder entitled to the payment of the dividend, a warrant authorising the payment of the dividend so declared, but the said warrant shall be so prepared as to authorise—

(*a*) immediate payment of so much of the dividend as does not exceed the distributable profits of the company for the financial year aforesaid (hereinafter referred to as the "immediate dividend"), and

(*b*) the payment of the deferred dividend on the respective dates on which each instalment of the deferred dividend becomes due and payable.

(8) Income-tax deducted under sub-section (6) from dividends shall be so apportioned between the immediate dividend and each instalment of the deferred dividend as to ensure that the income-tax deducted from the immediate dividend and each instalment of the deferred dividend bears the same proportion to the gross amount of the immediate dividend and the gross amount of each instalment of the deferred dividend as the total amount of the incometax so deducted bears to the gross amount of the total dividend declared by the company

(9) Every warrant issued under sub-section (7) shall be in such form and contain such particulars as may be specified by rules made under this Act.

(10) Notwithstanding anything to the contrary contained in the Income-tax Act, 1961, (43 of 1961), the Income-tax Officer shall not, for the purposes of that Act, treat an assessee to whom any instalment of deferred dividend is payable as in default in respect of that part of income-tax which is due in respect of such instalment of deferred dividend, as reduced by the income-tax, if any, deducted at source from such instalment, and shall continue to treat the assessee as not in default in respect of the said part of the income-tax, as so reduced, until the expiry of thirty-five days from the dateon which such instalment becomes due and payable to the assssee or the warrant in respect of such instalment is transferred by the assessee to any person, whichever is earlier, and no interest shall be chargeable under sub-section (2) of section 220 of that Act in respect of the said part of the income-tax, as so reduced, for the period during which the assessee is treatedas not in default.

Explanation.—In this sub-section, "assessee" has the meaning assigned to it in clause (7) of section 2 of the Income-tax Act, 1961 (43 of 1961).'

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